

FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.Writ Petition No. 1652 of 2015

Dr. Shashikala Wanjari

V.

R.T.M. Nagpur University, Nagpur, & ors.

Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's orders

Mrs. R.S. Sirpurkar Advocate for Petitioner.
Mr. Arun Agrawal Advocate for Respondents.

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**Coram : B.P. Dharmadhikari &
S.B. Shukre, JJ.**

Date : 21st April, 2015.

Heard.

2. Perused the provisions of Ordinance No. 17 of 2008 and Sections 31 and 32 of the Maharashtra Universities Act, 1994.

3. It is not in dispute that after grant of opportunity to the petitioner by the Disciplinary Action Committee, petitioner was not given its report and hence petitioner could not make any representation against that report to the final authority, namely Board of Examinations. Section 31(2) of the Maharashtra Universities Act obliges Board of Examinations to hear and decide all complaints. Thus, Board of Examinations ought to have extended

opportunity of hearing to the petitioner. That has also been not done.

4. The law in such matters has been settled by larger Bench of Hon'ble Apex Court in case of Union of India v. Mohammad Ramzan – **AIR 1991 SC 471**. Therein, in paragraph 14, the Apex Court has held that when enquiry is conducted by some third authority and punishment is to be imposed after considering such report by the Disciplinary Authority, the employee is entitled to receive copy of such report and is also entitled to an opportunity to show cause as to why the findings recorded in such report should not be accepted and acted upon by Disciplinary Authority. This law is also applicable in the present matter and has been violated. Petitioner has not been given copy of enquiry report, has not been made aware of findings recorded against her and has also not been heard by the Board of Examinations.

5. Advocate Sirpurkar has urged that in this situation, impugned order debarring petitioner should be set aside or at least should be stayed. According to her, petitioner is deliberately being kept away from examination work. Shri Agrawal disputes this. At this stage, prima facie, we find that officers of respondents are aware of various judgments delivered by this Court and also the procedure to be followed. Said procedure has not been deliberately adhered to. However, without observing anything on merits or demerits of the matter and without making any comment on standing/status of petitioner, we find it proper that the petitioner should keep herself away from such examination work, since the enquiry is pending.

6. We direct respondent no. 1 to serve copy of recommendations/report of Disciplinary Action Committee on petitioner within one week. The petitioner thereafter shall make representation to the Board of Examinations within further one week. The Board of Examinations shall give opportunity of

hearing to the petitioner within two weeks and after that, Board of Examinations shall pass appropriate orders within two weeks therefrom. Copy of the said order shall be duly served upon the petitioner.

7. Accordingly, only to enable the respondents to complete this exercise, we set aside the impugned notification dated 25.2.2015, in so far as it relates to petitioner only. Petition is allowed subject to payment of costs of Rs.5,000/- by respondent no.1 to petitioner..

Ordinary copy of this order may be given to the parties to act upon.

Judge

Judge

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